

Commodity Futures Trading Commission

§ 142.2

(c) Unless required by law, refunds under this subsection shall not bear interest.

§ 141.10 Statute of limitations.

If a debt has been outstanding for more than 10 years after the agency's right to collect the debt first accrued, the agency may not collect by salary offset unless facts material to the Government's right to collect were not known and could not reasonably have been known by the official or officials who were charged with the responsibility for discovery and collection of such debts.

§ 141.11 Non-waiver of rights.

An employee's involuntary payment of all or any part of a debt collected under these regulations will not be construed as a waiver of any rights that employee may have under 5 U.S.C. 5514 or any other provision of contract or law unless there are statutes or contract(s) to the contrary.

§ 141.12 Interest, penalties, and administrative costs.

Charges may be assessed for interest, penalties, and administrative costs in accordance with the Federal Claims Collection Standards, 4 CFR 102.13.

PART 142—INDEMNIFICATION OF CFTC EMPLOYEES

Sec.

142.1 Purpose and scope.

142.2 Policy.

AUTHORITY: 7 U.S.C. 4a(j).

SOURCE: 54 FR 25234, June 14, 1989, unless otherwise noted.

§ 142.1 Purpose and scope.

This part sets forth the policy and procedure with respect to the indemnification of Commission employees who are sued in their individual capacities and suffer an adverse judgment as a result of conduct taken within the scope of employment. (For purposes of this part the term Commission employees includes all present and former Commissioners and employees of the Commission). This part is intended to provide indemnification for adverse judgments for constitutional and fed-

eral statutory torts excepted from the Federal Tort Claims Act exclusive remedy provision 28 U.S.C. 2679(b) (as amended by the Federal Employees Liability Reform and Tort Compensation Act of 1988 (Pub. L. 100-694)). In any lawsuit which is filed against the employee alleging a common law tort occurring within the scope of employment, the United States may be substituted for the individual employee and any liability which may be found will be assessed against the government, pursuant to the Federal Employees Liability Reform and Tort Compensation Act of 1988.

§ 142.2 Policy.

(a) The Commission may indemnify its employees by the payment of available funds, in whole, or in part, for any verdict, judgment or other monetary award which is rendered against any employee, provided that the conduct giving rise to the verdict, judgment or award was taken within the scope of his or her employment with the Commission and that such indemnification is in the interest of the United States, as determined by the Commission.

(b) The Commission may settle or compromise a personal damage claim against its employee by the payment of available funds, at any time, provided the alleged conduct giving rise to the personal damage claim was taken within the scope of employment and that such settlement is in the interest of the United States as determined by the Commission in its discretion.

(c) Absent exceptional circumstances, as determined by the Commission, the Commission will not entertain a request either to agree to indemnify or to settle a personal damage claim before entry of an adverse verdict, judgment or monetary award.

(d) When an employee of the Commission becomes aware that an action may be or has been filed against the employee in his or her individual capacity as a result of conduct taken within the scope of his or her employment, the employee should immediately notify the Commission's Office of General Counsel that such an action is pending or threatened.

(e) The employee may thereafter request either (1) indemnification to satisfy a verdict, judgment or award entered against the employee or (2) payment to satisfy the requirements of a settlement proposal. The employee shall submit a written request, with documentation including copies of the verdict, judgment, award or settlement proposal, as appropriate, to the head of his or her division or office, who thereupon shall submit to the General Counsel, in a timely manner, a recommended disposition of the request. The General Counsel shall also seek the views of the Department of Justice. The General Counsel shall forward the request, the division or office's recommendation and the General Counsel's recommendation to the Commission for decision.

(f) Any payment under this section either to indemnify a Commodity Futures Trading Commission employee or to settle a personal damage claim shall be contingent upon the availability of appropriated funds of the Commodity Futures Trading Commission.

PART 143—COLLECTION OF CLAIMS OWED THE UNITED STATES ARISING FROM ACTIVITIES UNDER THE COMMISSION'S JURISDICTION

Sec.

143.1 Purpose.

143.2 Notice of claim.

143.3 Interest, penalty charges, and administrative costs.

143.4 Collection by offset.

143.5 Collection by compromise.

143.6 Referral for litigation.

143.7 Delegation of authority to the Executive Director.

143.8 Inflation-adjusted civil monetary penalties.

AUTHORITY: 7 U.S.C. 9 and 15, 9a, 12a(5), 13a, 13a-1(d) and 13(a); 31 U.S.C. 3701-3719; 28 U.S.C. 2461 note.

SOURCE: 50 FR 5384, Feb. 8, 1985, unless otherwise noted.

§ 143.1 Purpose.

This part implements the Federal Claims Collection Act, as amended by the Debt Collection Act, 31 U.S.C. 3701-3719, and interpreted by the Department of Justice and General Account-

ing Office in the Federal Claims Collection Standards (4 CFR parts 101-105), and the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Debt Collection Improvement Act of 1996. This part provides procedures which the Commission will use to collect claims owed the United States arising from activities under the Commission's jurisdiction, including amounts due the United States from fees, fines, civil penalties, damages, interest and other sources. This part further sets forth procedures for the Commission to determine and collect interest, penalties, and administrative costs on unpaid claims and to refer unpaid claims for litigation. This part also sets forth the maximum inflation-adjusted civil monetary penalties that may be assessed and enforced against persons for violations of the Commodity Exchange Act or regulations thereunder.

[61 FR 55566, Oct. 28, 1996]

§ 143.2 Notice of claim.

(a) The Commission will send a written notice to any person who owes payment to the United States under this part, stating the basis for the claim, the interest, penalties, and administrative costs that may be imposed for non-payment, and the date full payment is due.

(b) If the claim is disputed, the debtor shall respond to the notice in writing and state the reasons for non-payment. If the claim is not disputed but full payment is not made by the date indicated in the notice, the debtor shall state the reasons for the failure to make full payment.

(c) If no response or an unsatisfactory response is received by the date indicated in the notice, the Commission may take any further action appropriate under the Commodity Exchange Act or regulations thereunder, or under 4 CFR parts 101-105 and the Federal Claims Collection Act, as amended, 31 U.S.C. 3701-3719.

§ 143.3 Interest, penalty charges, and administrative costs.

(a) The Commission will assess interest on unpaid claims. The rate of interest assessed shall be the rate of the current value of funds to the U.S.